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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120919470-3513-02]

RIN 0648-XD122

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Shrimp Fishery off the Southern Atlantic States; Closure of the  
Penaeid Shrimp Fishery off South Carolina

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the penaeid shrimp commercial sector to  
trawling, i.e., brown, pink, and white shrimp, in the exclusive  
economic zone (EEZ) off South Carolina in the South Atlantic.  
This closure is necessary to protect the spawning stock of white  
shrimp that has been subject to unusually cold weather  
conditions where state water temperatures have been 9 °C (48  
°F), or less, for at least 7 consecutive days.

DATES: The closure is effective 12:01 a.m., local time, [insert  
date of publication in the Federal Register], until the  
effective date of a notification of opening which NOAA will  
publish in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Kate Michie, 727-570-5305; e-mail: [Kate.Michie@noaa.gov](mailto:Kate.Michie@noaa.gov).

SUPPLEMENTARY INFORMATION: The penaeid shrimp fishery of the South Atlantic is managed under the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Amendment 9 to the FMP revised the criteria and procedures by which a South Atlantic state may request a concurrent closure of the EEZ to the harvest of penaeid shrimp when state waters close as a result of severe winter weather (78 FR 35571, June 13, 2013). Under 50 CFR 622.206(a), NMFS may close the EEZ adjacent to South Atlantic states that have closed their waters to harvest of brown, pink, and white shrimp to protect the white shrimp spawning stock that has been severely depleted by cold weather or when applicable state water temperatures are 9 °C (48 °F), or less, for at least 7 consecutive days. Consistent with those procedures and criteria, the state of South Carolina has determined, based on the information from standardized assessments, that unusually cold temperatures have occurred and that state water temperatures have been 9 °C (48 °F), or less,

for at least 7 consecutive days and that these cold weather conditions pose a risk to the condition and vulnerability of overwintering white shrimp populations in its state waters. South Carolina closed its waters on January 13, 2014, to the harvest of brown, pink, and white shrimp, and has requested that the Council and NMFS implement a concurrent closure of the EEZ off South Carolina. In accordance with the procedures described in the FMP, the state of South Carolina submitted a letter to the NMFS Regional Administrator (RA) on February 5, 2014, requesting that NMFS close the EEZ adjacent to South Carolina to penaeid shrimp harvest as a result of severe cold weather conditions.

NMFS has determined that the recommended Federal closure conforms with the procedures and criteria specified in the FMP and the Magnuson-Stevens Act, and, therefore, implements the Federal closure effective 12:01 a.m., local time, [insert date of publication in the Federal Register]. The closure will be effective until the ending date of the closure in South Carolina state waters, but may be ended earlier based on a request from the state. In no case will the Federal closure remain effective after May 31, 2014. NMFS will terminate the closure of the EEZ by filing a notification to that effect with the Office of the Federal Register.

During the closure, as specified in 50 CFR 622.206(a)(2), no person may: (1) trawl for brown, pink, or white shrimp in the EEZ off South Carolina; (2) possess on board a fishing vessel brown, pink, or white shrimp in or from the EEZ off South Carolina unless the vessel is in transit through the area and all nets with a mesh size of less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut, are stowed below deck; or (3) for a vessel trawling within 25 nautical miles of the baseline from which the territorial sea is measured, use or have on board a trawl net with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut.

#### Classification

The RA, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the spawning stock of white shrimp off South Carolina and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.206(a) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the penaeid shrimp commercial sector in the EEZ off South Carolina constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure.

Providing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the severely depleted spawning stock of white shrimp off South Carolina. Prior notice and opportunity for public comment would require time and would potentially further harm the spawning stock that has been impacted due to cold weather.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: February 10, 2014.

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Sean F. Corson,

Acting Deputy Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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